

quicker would be to consider first if the Committee of the Whole is willing to consider it without having the printed amendment proposed by Delegate Henderson. This would, regardless of which way the vote went on that, give us time to have the other two amendments in printed form. It is easy enough for us to comprehend the effect of Delegate Henderson's amendment.

The Chair would therefore be disposed to ask whether there is any objection to proceeding with the consideration of an amendment to strike all of section 11, which would be all of lines 41 to 49, inclusive, on page 3, with the understanding the printed amendment will be on your desk very shortly.

For what purpose does Delegate Sherbow rise?

DELEGATE SHERBOW: Before I would state or not state an objection, may I ask Delegate Henderson a question on that?

THE CHAIRMAN: Very well.

DELEGATE HENDERSON: I yield.

THE CHAIRMAN: The only point here, Delegate Sherbow, is whether we can proceed without waiting for the printed amendment.

DELEGATE SHERBOW: My question goes to the heart, and that is this: Would not your amendment strike out the whole grand jury system in Maryland?

THE CHAIRMAN: Delegate Henderson.

DELEGATE HENDERSON: I think not, because as I understand it there is no provision in the Maryland Constitution which even requires a grand jury. It simply says in one article that it may be on indictment or charge.

He is entitled to a copy of the indictment or charge. It is entirely a matter of statutory law and the rules of the court as I understand it under the present system and that would not be changed by the failure to adopt this provision.

THE CHAIRMAN: Delegate Sherbow, the Chair suggests what we are now doing is debating the question. The only matter at the moment is whether there is any objection to proceeding with the debate without having the printed amendment before you.

The Chair hears none.

This will be Amendment No. 17, proposed by Delegate Henderson.

The amendment is on page 3 to strike all of section 11, Grand Jury Indictment as a Right of the Accused, comprising lines 41 to 49, inclusive, the Committee Recommendation R&P-2.

Is there a second?

DELEGATE CASE: Seconded.

THE CHAIRMAN: The amendment having been seconded, the Chair recognizes Delegate Henderson to speak to the amendment.

DELEGATE HENDERSON: Mr. Chairman, fellow delegates, I am not proposing any change in the existing law, which I think works very well, although it is set up by statute and by rule of court. The practice is, as I understand it, that most serious crimes are taken before the grand jury. But since many people are held in jail, they are given an option to stand trial and not wait for the action of the grand jury on an information filed by the state's attorney. I do not know what proportion of crime in Maryland, even the most serious crimes, are tried under that system, but I believe it is a very large percentage. It is a very useful thing, because as I say, people can get to trial quicker, rather than stay in jail, and it avoids the great load and burden which would otherwise be placed upon the grand jury.

I want to preserve that system. I want that perfectly clear, with such improvement as may be made from time to time. But by adopting this language, which is lifted out of the federal Constitution and applicable to federal cases not to state cases, you may lift some of the gloss that has been put on that, namely that the accused has a right to indictment which he cannot waive. Likewise he is not permitted, I believe, to waive jury cases in the federal courts.

That system, which is based on relatively a small number of specialized statutory crimes, such as the Mann Act and others, and does not cover the whole gamut of common law crimes which exist at the state level, has been set up on a very different basis. I fear that by adopting the federal language we may in fact destroy our present system which has been set up under the statutes and rules of the court.

THE CHAIRMAN: Are there any questions of the sponsor of the amendment?

*(There was no response.)*

Does any person desire to speak in opposition?